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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

VISTO CORPORATION,
Plaintiff and Counterclaim-Defendant,
v.
RESEARCH IN MOTION LIMITED, and
RESEARCH IN MOTION CORPORATION
Defendants and Counterclaim-Plaintiffs.

Case No. CV-08-80031-JSW (JL)

Court of Original Jurisdiction:

Civil Action No. 2-06-CV-181-TJW(CE)
United States District Court For The Eastern
District of Texas - Marshall Division

**ADMINISTRATIVE MOTION TO FILE
PORTIONS OF DOCUMENTS UNDER
SEAL**

Date: April 23, 2008
Time: 9:30 a.m.
Judge: Magistrate Judge Larson

1 Pursuant to Local Rules 79-5 and 7-11, Plaintiff Visto Corporation (“Visto Corporation”)
2 hereby moves this Court for an order allowing Visto Corporation to file portions of the following
3 documents under seal:
4

5 1. Research in Motion Limited and Research in Motion Corporation’s Supplemental
6 Objections and Responses to Visto Corporation’s Sixth Set of Interrogatories dated January 18,
7 2008, which is attached to the Declaration of Martin C. Robson in Support of Visto
8 Corporation’s Opposition to Google’s Motion to Quash Subpoena, or in the Alternative, For
9 Protective Order, and Visto’s Cross-Motion to Compel Google to Comply with Third-Party
10 Subpoena, and designated Exhibit B.
11

12 2. Excerpts from the transcript of the deposition of Ryan Harkins, taken on February 21,
13 2008 in the original action, Civil Action No. 2-06-CV-181-TJW (CE). These excerpts are
14 attached to the Declaration of Martin C. Robson in Support of Visto Corporation’s Opposition to
15 Google’s Motion to Quash Subpoena, or in the Alternative, For Protective Order, and Visto’s
16 Cross-Motion to Compel Google to Comply with Third-Party Subpoena (“Opposition”), and
17 designated Exhibit H.
18

19 3. Excerpts from the transcript of the deposition of David Clarke, taken on March 12,
20 2008 in the original action, Civil Action No. 2-06-CV-181-TJW (CE). These excerpts are
21 attached to the Declaration of Martin C. Robson in Support of Visto Corporation’s Opposition
22 and designated Exhibit I.
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24 4. Excerpts from the transcript of the deposition of Michael Morrissey, taken on
25 February 12, 2008 in the original action, Civil Action No. 2-06-CV-181-TJW (CE). These
26 excerpts are attached to the Declaration of Martin C. Robson in Support of Visto Corporation’s
27 Opposition and designated Exhibit J.
28

1 5. Excerpts from the transcript of the deposition of David Castell, taken on February 20,
2 2008 in the original action, Civil Action No. 2-06-CV-181-TJW (CE). These excerpts are
3 attached to the Declaration of Martin C. Robson in Support of Visto Corporation's Opposition
4 and designated Exhibit K

5
6 6. Selected portions of Visto Corporation's Opposition, which contains or makes
7 reference to information that is provided in the five documents set forth above.

8
9 The accompanying Declaration of Martin C. Robson explains the need for sealing the
10 documents set forth above. These documents contain information that Research in Motion
11 Limited and Research in Motion (collectively, "RIM"), the defendants in the original action,
12 disclosed to Visto Corporation pursuant to the protective order entered in that action. A true and
13 correct copy of this protective order is attached to the accompanying Robson Declaration and
14 designated Exhibit 1. The protective order defines protected information as "Discovery Material
15 that the Disclosing Party in good faith designates as "CONFIDENTIAL," "CONFIDENTIAL -
16 ATTORNEY'S EYES ONLY," or "CONFIDENTIAL - ATTORNEY'S EYES ONLY -
17 COMPUTER SOURCE CODE." (Robson Decl., ¶3, Ex. 1 at § 3.2.) The disclosure of
18 designated information in pleadings that are filed with the court is governed by section 5.4.5 of
19 the protective order, which states:

20
21 [A]ny Discovery Material designated as Protected Information that is filed

22
23 with the Court shall be filed and kept by the Court under seal and shall be made

24
25 available only to the Court and to persons authorized by the terms of this Order.
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1 The six documents set forth above all contain information that RIM designated as
2 "CONFIDENTIAL," "CONFIDENTIAL - ATTORNEY'S EYES ONLY," or "CONFIDENTIAL
3 - ATTORNEY'S EYES ONLY – COMPUTER SOURCE CODE." pursuant to the protective
4 order. (Robson Decl., ¶5-8.)
5

6 Visto Corporation brings this administrative motion to comply with section 5.4.5 of the
7 protective order, but takes no position on whether RIM's designated information is sealable.
8 (Robson Decl., ¶9.) Pursuant to Local Rule 7-12, Visto Corporation's counsel contacted RIM's
9 counsel and obtained a stipulation for filing the subject materials under seal. (Robson Decl.,
10 ¶10.)
11

12 With respect to the disclosure of RIM's designated information to Google Inc.
13 ("Google") in connection with Google's pending motion to quash, RIM asked that Visto
14 Corporation obtains Google's written acknowledgement to abide by the terms of the protective
15 order before serving on Google the unredacted copies of the documents set forth above. (Robson
16 Decl., ¶11.) Visto Corporation's counsel has notified Google's counsel about RIM's request and
17 is awaiting Google's response. (Robson Decl., ¶11.) In the meantime, Google has been served
18 with unredacted copies of the subject documents.
19

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1 For the foregoing reasons, Visto Corporation respectfully requests that this Court grants
2 this administrative motion and permit the filing of the affected portions of the above-mentioned
3 documents under seal. In conformance with Local Rule 79-5, Visto Corporation will file
4 redacted versions of the subject documents in the public record.

5
6 Dated: March 31, 2008

Respectfully submitted,

7 /s/ Charles M. Kagay

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